## REMARKS

This is a response to the Office Action dated April 24, 2005. Claims 7-27 are pending. Claims 7 and 21 have been amended. Individual issues raised by the Examiner are addressed next.

### Finality of the Office Action

Applicant respectfully requests that the finality of the Action, discussed in the Conclusion section of the Office Action, be withdrawn for the following reasons.

MPEP §706.07(a) provides that "second or any subsequent actions on the merits shall be made final, except where the examiner introduced a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement." Here, the Office Action introduced new grounds for rejections of all claims, allegedly necessitated by applicant's amendments. However, claims 7-20 and 22-23 had not been amended in the applicant's response dated February 6, 2006. Therefore, the new grounds for rejection of claims 7-20 could not have been necessitated by applicant's amendments. Likewise, amendments to claims 21 and 24, which corrected inadvertent typographical errors, could not have necessitated new grounds of rejections introduced for the first time in the Office Action. Additionally, because no Information Disclosure Statement (IDS) was submitted with (or after) applicant's February 6 response, the new grounds of rejection are not based on information submitted in an IDS. Accordingly, pursuant to MPEP §706.07(a), applicant respectfully requests that the finality of the Office Action be withdrawn.

### Claim Rejections Under 35 U.S.C. § 103

In paragraphs 1-9 of the Office Action, claims 7-27 were rejected as being unpatentable under 35 U.S.C. 103(a) over U.S. Patent No. 6,771,290 to Hoyle ("Hoyle") in view of U.S. Patent No. 6,085,249 to Wang ("Wang"). Applicant respectfully traverses.

Hoyle discloses "a method and apparatus for providing an automatically upgradeable software application [that] includes targeted advertising based upon demographics and user interaction with the computer." (Hoyle, *Abstract*). Hoyle's disclosure is directed to a computer program that displays targeted advertisement to a user while providing Internet access. Hoyle discloses two separate aspects of his software application: (1) automatic upgrading and (2) targeted advertising.

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Pertinent to the advertising aspect, Hoyle discloses storing personalized demographic data obtained from users in a database, and displaying targeted advertisements based on the stored personalized data. Separately, Hoyle discloses a method for automatically upgrading software on users' computers. Hoyle's software upgrades are not personalized and, to the best of applicant's understanding, are based only on the presence of previously installed components of the software and their versions in a user's computer. (*See* Hoyle, col. 20, ll. 64-66, disclosing that the upgrading process is implemented automatically by the client software application without requiring any user input.)

The Office Action alleges that the steps of "collecting . . ." and "storing . . ." are taught by Hoyle's disclosure related to personalized advertising, and that the steps of "receiving from the user an indication . . ." and "sending to the user the electronic data . . ." are taught by Hoyle's disclosure related to the software upgrade functionality. The Office Action admits that the step of "sending to the user a checksum of the collected data" is not disclosed by Hoyle, but alleges that this step is disclosed by Wang. This allegation is based on incorrect reading of Wang.

Wang discloses "a method an apparatus for transferring data in response to authentication information." (Wang, *Abstract*). Wang teaches a client computer receiving a digital media and separately a representation of the digital media (such as a MD5 digest). The client then determines which media files have not been previously received by comparing representations of the locally stored media files with the representations received from the server. The client requests the media files that have not been previously received from the server. After receiving the requested media files from the server, the client verifies that all media files have been properly received. To this end, the client generates a representation of the received media file and compares the generated representation to the one previously sent from the server. Specifically, the disclosure cited in the Office Action for teaching the use of "checksums", Wang reads: "Typically, a check sum of the regenerated representation may be compared against the check sum for the representation transmitted from the server system in step 311". (Wang, col. 6, lines 59-62). Thus, contrary to the assertion in the Office Action, Wang does not disclose that checksum are sent to the user from the server, rather, that the client generates checksums of the two representations to compare them. (*see also* Wang, col. 4, l. 57 – col. 7, l. 15).

The Office Action further alleges that Wang discloses the step of "sending to the user a checksum of the collected data" at col. 6, ll. 50-63. However, a closer reading of the cited

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paragraph in Wang shows that neither the "check sum" for the client-generated representation nor the "check sum" of the received representation are transmitted to the user. Instead, both "check sums" in Wang are provided by the client. Accordingly, contrary to the assertion in the Office Action, Wang does not disclose "sending to the user a checksum of the collected data."

Because Hoyle admittedly does not disclose this step also, the combination of references cited in the Office Action fails to render the instant claims obvious.

To the extent the Examiner interpreted Wang's "representations" as corresponding to the "checksum" limitation recited in claim 7, the combination of Hoyle and Wang, still fails to disclose or suggest all limitations of the claim. As amended, claim 7 recites "receiving from the user an indication of data previously sent to the user based on the checksum." This limitation requires the indication received from the user to be based on a checksum of the collected data, which data is in turn based on the user profile. This limitation is not disclosed, taught, or suggested by Hoyle, Wang, or their combination. As explained above, the aspect of Hoyle's disclosure dealing with automatic upgrades of the software is not concerned with any checksums, or any other information that is based on the user profile. Because in Hoyle software upgrades are not user-specific, and therefore Hoyle does not disclose the above-recited limitation.

The Office Action alleged that the limitation of "receiving from the user . . ." is disclosed by the following sentence in Hoyle: "Once the problem has been determined, an error message can be generated for the user" (Hoyle, col. 21, lines 45-46). Applicant respectfully maintains that generating an error message for the user does not even suggest "receiving from the user an indication of data previously sent to the user," as recited in the claim. Accordingly, this step is not disclosed, taught or fairly suggested in Hoyle.

Wang likewise does not disclose "receiving from the user an indication of data previously sent to the user . . .," as recited in claim 7. Wang discloses the client requesting specific missing or corrupted information from a server. Wang however has no disclosure of this client request containing any indication of data previously sent to the user. Even when the client in Wang requests retransmission of the corrupted information that was received previously, the client's request for retransmission of the corrupted information is in no way different from the initial request for this information – in other words it does not reflect the presence of "data previously sent to the user." Therefore, Wang does not disclose or suggest "receiving from the user an indication of data previously sent to the user."

Accordingly, claim 7 is patentable over Hoyle in view of Wang, because the combination of these references fails to disclose, teach or suggests all limitations of claim 7.

Independent claim 14 recites a "a client component residing . . . operable to receive a checksum of the collected data from the server, to determine from the received checksum data previously sent to the user, and to send to the server component an indication of data previously sent to the user"; independent claim 21 recites "sending to the server an indication of data previously sent by the server based on the received checksum." For the reasons set forth above, the combination of Hoyle and Wang does not render these claims unpatentable.

Additionally, applicant respectfully disagrees with the statement in the Office Action that Hoyle's disclosure of a pull down menu containing basic commands available to the user (col. 14, lines 1-13) teaches the limitation of "deleting from the database electronic data that has been previously sent to the user" in claim 8, or that Hoyle's disclosure of links related to particular categories discloses "healthcare related data," as recited in claim 13. The statements in the Office Action concerning other dependent claims are not sufficiently specific for the applicant to formulate a response. (For example, the Office Action indicated without discussion that Hoyle discloses the limitations of claims 9-12, pointing to Hoyle "38-52". This citation is unclear, as it does not refer to either columns of text, or lines in a column.)

In paragraph 7-9, claims 25-27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle in view of Wang. Claims 25-27 are patentable because they depend on independent claims that are believed to be patentable. In addition, the claims are patentable because contrary to the allegation in the Office Action that Wang discloses "the sent checksum [that] identifies one or more collected data items," Wang does not disclose sending a checksum and, therefore, cannot disclose "the sent checksum . . ."

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## Conclusion

In view of the above, the Applicant submits that claims 7-27 are patentable over the prior art of record, and therefore the application is in condition for allowance. Should the Examiner have any questions regarding the application or this submission, the Examiner is invited to call the undersigned at the number listed below.

Respectfully submitted,

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